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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/276,080	03/25/1999	CHRISTOPHER MICHAEL PURSE	583-1006	1624

7590 08/09/2004

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EXAMINER	
DUONG, FRANK	
ART UNIT	PAPER NUMBER
2666	

DATE MAILED: 08/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/276,080	PURSE, CHRISTOPHER MICHAEL	
	Examiner	Art Unit	
	Frank Duong	2666	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-5,7,8 and 10-21*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Frank Duong
Examiner
Art Unit: 2666

Continuation of 5. does NOT place the application in condition for allowance because: it does not place the application in a favorable condition for allowance by overcome the art rejection per Office Action mailed 04/21/04. In the Remarks of the response filed 21 June 2004, Applicants argue "Although the Examiner has not explained his reasoning ... claim refers to the "messaging information required to recreate the supercarrier signal from the trib signals ..." This does not means "any part" of messaging required, it means "all" the messaging which is required to enable the supercarrier to be recreated. The word "recreate" would not be fulfilled if the claim meant "any part" since only if all essential parts of the messaging of the orignal supercarrier are present can the supercarrier be "recreated"". In response Examiner respectfully disagrees and asserts the Transport Overhead (TOH) as clearly pointed out in the Office Action corresponding to the claimed limitation of "messaging information, required to recreate the supercarrier signal from the trib signals after transmission". Please also refer to the response in last Office Action. As for the second portion of the argument pertaining "any part" or "all" parts of the "messaging information", a careful review claims 10-19 Examiner find no such language in the claims. Perhaps Applicants refer to certain features that are disclosed in the present application but not recited in the rejected claims in making the contention that the Martin reference fails to show certain feature of Applicants' invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claims are subjected to Examiner's broadest reasonable interpretation of the prior art of record. A specifically defined term or limitation shall be considered accordingly. Perhaps Applicants should further define the disputed term to exclude it from reading on Martins reference. Due to the arguments are not persuasive and the prior art of record is still applicable, the rejection from last Office Action is maintained..